

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
CTIA Petition for Declaratory Ruling on Local)	
Number Portability Implementation Issues)	
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)	
)	

To: The Commission

REPLY COMMENTS OF CINGULAR WIRELESS LLC

Cingular Wireless LLC (“Cingular”), a national provider of Commercial Mobile Radio Service (“CMRS”), offers the following reply comments in the above-captioned proceeding seeking comments on the Cellular Telecommunications and Internet Association’s (“CTIA”) petition for declaratory ruling seeking resolution of urgent outstanding local number portability (“LNP”) implementation issues.¹ The record in this proceeding and in the *Rate Center Petition* proceeding demonstrate that the Commission’s failure to provide a coherent, enforceable roadmap for CMRS LNP deployment will result in considerable implementation problems. These problems cannot be avoided by delaying intermodal portability. The burden of these difficulties will fall most heavily on consumers, who will face significant delays in initiating service and degraded service quality and reliability due to carriers’ differing LNP

¹ See *Comment Sought on CTIA Petition for Declaratory Ruling on Local Number Portability Implementation Issues*, Public Notice, DA 03-1753 (rel. May 22, 2003).
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implementation approaches. As Cingular described in its comments, the only solution is a comprehensive rulemaking to adopt valid, enforceable CMRS LNP implementation standards and processes.

I. THE RECORD REVEALS SUBSTANTIAL UNRESOLVED PROBLEMS WITH WIRELESS-WIRELESS PORTING

The record developed in response to this petition and also the *Rate Center Petition*² reveals that substantial problems need to be resolved before CMRS carriers can implement LNP. Some commenters have argued that the Commission can address this issue by delaying porting between *wireline* and wireless carriers, while allowing wireless-wireless porting to proceed.³ As discussed below, however, many of the outstanding issues arise equally in the wireless-wireless context. Thus, restricting the requirement to wireless-wireless ports, even in the near term, will not solve the pressing problems that CMRS LNP presents. As Cingular described in its initial comments, these issues can only be resolved in a comprehensive rulemaking that establishes valid and enforceable standards for CMRS portability.

Business Rules. Perhaps most significantly, the comments reveal sharp disparities of views regarding the porting business rules issues. These disputes will arise in wireless-wireless

² *Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association*, CC Docket No. 95-116 (filed Jan. 23, 2003) (“Rate Center Petition”); *see also Comment Sought on CTIA Petition for Declaratory Ruling that Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas*, Public Notice, DA 03-211 (rel. Jan. 03, 2003).

³ The Public Utilities Commission of Ohio comments at 2-3; AT&T comments at 5; The Nebraska Public Service Commission comments at 3-4. Herein, citations simply to a party’s “comments” will indicate that party’s initial comments on the instant petition. Other comments will be identified by docket and date filed, in addition to commenter.

ports, and must be resolved before CMRS LNP can proceed. The Commission must clarify that its LNP Order does not abrogate or abridge agreements between customers and carriers.

Cingular's customer service agreement specifies that Cingular is not obligated to transfer a telephone number until the customer fulfills his payment obligations. It is beyond the FCC's power to abrogate such terms in carrier's customer service agreements. Even if the Commission could abridge such provisions, to do so would fly in the face of its longstanding policy of allowing the marketplace to determine the basic terms of mobile telephone service.

Rate Center Issue. As Cingular described in its reply comments on the *Rate Center Petition*, the rate center issue is not limited to ports between wireline and wireless carriers – it arises in wireless-wireless ports as well.⁴ Indeed, the position of some parties in the *Rate Center Petition* proceeding, reiterated in this proceeding, was that portability should be limited to instances in which the wireless carrier has interconnection facilities and/or pre-existing local numbers in the ILEC rate center in which the number to be ported is located.⁵ And one of the fundamental arguments in support of this position is that, if this restriction is not observed, the local rating (and thus the inbound local calling scope) of numbers may change if ported.⁶ Yet the same result can occur with wireless-wireless ports. When a number is ported from one

⁴ Cingular Wireless LLC reply comments, CC Docket No. 95-116 (filed Mar. 13, 2003) at 2-4.

⁵ BellSouth comments, CC Docket No. 95-116 (filed Feb. 26, 2003) at 3; SBC comments, CC Docket No. 95-116 (filed Feb. 26, 2003) at 3-4; Fred Williamson & Associates, Inc. reply comments, CC Docket No. 95-116 (filed March 13, 2003) at 2-3 ("Fred Williamson March 2003 reply comments").

⁶ OPASTCO comments, CC Docket No. 95-116 (filed Feb. 26, 2003) at 2; Fred Williamson March 2003 reply comments at 3.

wireless carrier to another, the number will become associated with the porting-in carrier's Location Routing Number ("LRN"). The porting-in carrier's LRN may be linked to a different rate center in a different LEC's service area than the rate center to which the porting-out wireless carrier's LRN is linked. If, as some rural LECs have asserted, these calls are routed over toll trunks, wireline calls to the ported wireless number may become toll calls.⁷ Indeed, two commenters have argued that *wireless-wireless* portability should be restricted to situations where both wireless carriers have interconnection facilities and local numbers in the rate center where the number is located.⁸ This demonstrates both that the rate center issue is a serious problem that must be resolved before wireless porting can begin, and that limiting CMRS portability to wireless-wireless ports will not resolve it.

Type-1 Numbers. The problems that have been identified with Type-1 numbers will present themselves with *any* port involving a wireless Type-1 number – even if the port is between two wireless carriers. In the case of Type-1 numbers, the LEC is the holder of the number from a network perspective, but the number is provided to a wireless carrier pursuant to a Type-1 (end-office) interconnection agreement, and assigned to a wireless subscriber. A substantial number of wireless customers are served on Type-1 numbers. Indeed, Cingular alone serves approximately one million customers using Type-1 numbers. Thus, a significant number of wireless-wireless ports will involve wireline carriers, and necessitate the resolution of the Type-1-related number-validation and customer-validation issues that have been described in this

⁷ OPASTCO comments at 4-5.

⁸ Rural Cellular Association comments at 3; Rural Telecommunications Group comments at 2-4.

proceeding. The Type-1 issues must be resolved for CMRS portability to go forward, and arise even with wireless-wireless ports.

Porting Interval. CTIA and commenters also have described how the lack of enforceable standards for CMRS LNP implementation leaves carriers free to implement whatever porting intervals they see fit. The wireless porting interval vividly illustrates why the Commission, having asserted that the wireless marketplace will not move to portability on its own, cannot expect the industry to implement LNP “without benefit of concrete, enforceable rules and guidance.”⁹

For example, small rural CMRS carriers have argued that they should not be held to a porting interval as short as two and a half hours because of the burden it would place on an organization as small as theirs to meet such an aggressive target.¹⁰ This outcome would lead, however, to a competitive imbalance. The carriers that are least ready to port will be able to port numbers *in* more quickly because of the readiness of other carriers porting numbers *to* them, but they would be permitted to delay their own ports *out* due to their lack of readiness.

Obviously, because the fundamental problem with the porting interval is the lack of an enforceable standard for CMRS ports, delaying intermodal portability offers no relief. Indeed, the issue might even be *exacerbated* by limiting CMRS carriers to porting with other CMRS carriers. This is so because eliminating the possibility of LEC ports will remove the only class of ports for which there may be a valid and enforceable porting interval.

⁹ Alltel comments at 3.

¹⁰ Rural Telecommunications Group comments at 12.

As Cingular described in its comments, all of these significant outstanding issues must be resolved before CMRS LNP can be implemented. They can be resolved only through a comprehensive rulemaking to adopt valid, enforceable CMRS LNP implementation standards and processes.

II. UNRESOLVED CMRS LNP IMPLEMENTATION ISSUES WILL HAVE A SIGNIFICANT IMPACT ON CONSUMERS

The record in this proceeding also amply reveals that the consequences of the Commission's failure to resolve the outstanding CMRS LNP implementation issues will fall most heavily on consumers. The wireless industry has thus far provided consumers with a very positive consumer experience, which has been central to the wireless industry's phenomenal success.¹¹ Problems with LNP implementation, however, pose a grave threat to the wireless customer experience.

First, portability threatens the smooth service activation process that wireless carriers provide. Wireless customers have come to expect to be able to initiate service in a carrier's retail outlet in a short period of time. This was the basis for the industry's agreement on the two-and-one-half-hour porting interval for CMRS ports.¹² The lack of a defined porting interval for wireless-wireless ports will preclude wireless carriers from even knowing for certain how quickly they will be able to initiate service when customers wish to port in their numbers.

¹¹ U.S. General Accounting Office, *Telecommunications: FCC Should Include Call Quality in Its Annual Report on Competition in Mobile Phone Service*, GAO-03-501 at 27-28 (Washington, DC: April 2003) (finding that 83% of wireless customers are satisfied with the quality of their service); *see also Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Seventh Report, 17 FCC Rcd 12985, 12989-12990 (rel. July 3, 2002).

¹² NANC LNPA Selection Working Group Second Report on Wireless Wireline Integration (adopted June 30, 1999) at § 3.4.
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Second, portability threatens the reliability of nationwide roaming. Although the Commission has reiterated in general terms that wireless carriers must support nationwide roaming,¹³ substantial uncertainty remains about the scope of this obligation. Small rural wireless carriers have argued that their obligation should be limited to the ability to complete calls, and/or that they are not obligated to deploy the industry-adopted technology for supporting portability (separation of the Mobile Identification Number (“MIN”) from the Mobile Directory Number (“MDN”)).¹⁴ Without a clear statement that MIN/MDN separation is required, however, customers with ported (or pooled) numbers will face degraded service while roaming. Carriers that have not implemented MIN/MDN separation will not be able to distinguish roamers’ MINs from MDNs, making it impossible for them to deliver an accurate call-back number to a Public Service Answering Point (“PSAP”) in the case of a 911 call. The Commission’s recent statement that rural carriers must deliver accurate call-back numbers to PSAPs pursuant to section 20.18(d), combined with its refusal to mandate MIN/MDN separation, merely increases confusion – particularly since at least one group of rural CMRS carriers specifically has argued that the call-back number from a ported mobile unit is not “available” to

¹³ *Numbering Resource Optimization*, Fourth Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket Nos. 99-200, 96-98, 95-116, FCC 03-126 at para. 14, n.34 (rel. June 18, 2003); see *Verizon Wireless’ Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, Memorandum Opinion and Order, 17 FCC Rcd 14972 (rel. July 26, 2002).

¹⁴ Missouri RSA No. 7 Limited Partnership comments, CC Docket Nos. 99-200 and 95-116, WT Docket No. 01-184 (filed Feb. 13, 2003) at 2 (“Mid-Missouri February 2003 comments”). See also Letter from Michael K. Kurtis, counsel to Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular, *et al.* to Marlene H. Dortch, FCC, CC Docket No. 95-116 (filed June 14, 2002) (“Mid-Missouri Ex Parte”).

a carrier that has not implemented MIN/MDN separation, and thus falls within the exception in section 20.18(d)(2).¹⁵

The Commission's failure to specify that MIN/MDN separation is necessary to support nationwide roaming will have other significant consequences as well. Outgoing caller-ID will be incorrect. Outgoing short-messaging service ("SMS") messages will be misidentified. And the wrong carrier is likely to be billed for roaming traffic, because the carrier that has not implemented MIN/MDN separation will seek to identify the "home" carrier of the roamer based on the first six digits of the number transmitted by the handset, assuming it is an MDN, when in fact it will be a MIN that can only be traced to its home system based on the MIN-block identifier tables administered by the MIN-block administrator.¹⁶ Incorrect carrier-to-carrier billing will translate into incorrect consumer billing – with the serious prospect of one customer's roaming charges showing up on another customer's bill.

Third, the Commission's failure to resolve the rate center issue and the outstanding numbering-related intercarrier compensation issues is likely to result in changes to ported numbers' inbound local calling scope. Customers that were accustomed to having a local number in their community of interest may find they no longer have such a number after they port. Nor is there any requirement in the Commission's rules or orders for carriers to advise customer of this possibility – and, indeed, carriers probably will have no way of knowing the impact of a port on inbound local calling, particularly in the period immediately after porting begins. Cingular, for example, has no way of knowing how individual LECs will rate calls to

¹⁵ Mid-Missouri February 2003 comments at 3-4.

numbers ported to Cingular, given Cingular's network architecture – particularly since the treatment may vary from LEC to LEC.

The Commission's failure to establish an enforceable plan for CMRS LNP implementation will cause substantial consumer harm. Consumers will be the ones affected if their ports fail or are delayed, when their inbound local calling scope changes, or when they are unable to receive a call back from a PSAP. Only by providing needed guidance – well in advance of the November implementation deadline – can these problems be avoided.

¹⁶ Some rural CMRS carriers have challenged their obligation to pay for access to these tables. *See* Mid-Missouri Ex Parte.

CONCLUSION

Number portability is a complex process; CMRS portability is doubly complex because of mobility, the mismatch between rate centers and wireless service areas, and the need to support roaming. The proceedings in response to CTIA's two petitions have revealed substantial problems, and it is incumbent upon the Commission to solve them – and to solve them sufficiently in advance of the deadline to allow for implementation. The Commission's current construct (a bare mandate supported by no implementing standards or processes) is insufficient to resolve these problems. Consumers will be harmed if the Commission fails initiate a comprehensive rulemaking to adopt a valid, enforceable CMRS LNP implementation standards and processes.

Respectfully submitted,

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